

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JASON ROMERO,

Plaintiff,

v.

No. CV 13-0643 JB/KBM

GERMAN FRANCO, et al.,

Defendants.

**ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL AND
MOTION TO SUBMIT EVIDENCE**

THIS MATTER is before the Court on Plaintiff's Motion for Appointment of Counsel (Doc. 3) and Motion to Submit Evidence (Doc. 4). Factors the Court weighs when considering a motion for appointment of counsel in a civil rights case include "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)). "It is not enough 'that having counsel appointed would have assisted [the prisoner] in presenting his strongest possible case, [as] the same could be said in any case.'" *Steffey v. Orman*, 461 F.3d 1218, 1223 (10th Cir. 2006) (quoting *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995)). Only in the extreme case where a lack of counsel results in fundamental unfairness is the appointment of counsel merited. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 115 (10th Cir. 2004).

This is not such an extreme case. The Court has reviewed the complaint and subsequent pleadings in light of the foregoing factors. Plaintiff appears to understand the issues in the case and to be representing himself in an intelligent and capable manner. *See Lucero v. Gunter*, 52

F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the motion.

Plaintiff's motion to submit evidence also will be denied at this time. The Court notes that, pursuant to D.N.M.LR-Civ 10.4, the Clerk returned the voluminous exhibits that Plaintiff submitted with his complaint. If discovery is ordered or an evidentiary hearing is set, the Court will consider a renewed motion.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Appointment of Counsel (Doc. 3) and Motion to Submit Evidence (Doc. 4) are DENIED at this time.


UNITED STATES CHIEF MAGISTRATE JUDGE